

FLORENCIO VALLEJO,	)	No. C 07-4536 JSW (PR)
Petitioner,	)	
vs.	)	<b>ORDER DENYING</b>
ROSEANNE CAMPBELL, Warden,	)	<b>CERTIFICATE OF</b>
Respondent.	)	<b>APPEALABILITY</b>
	)	<b>(Docket nos. 16, 17)</b>

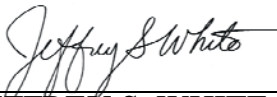
A judge shall grant a COA “only if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). “Determining whether a COA should issue where the petition was dismissed on procedural grounds has two components, one directed at the underlying constitutional claims and one directed at the district court’s procedural holding.” *Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000). “When the district court denies a habeas petition on procedural grounds without reaching the prisoner’s underlying constitutional claim, a COA should issue when the prisoner shows, at least, that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.” *Id.* at 484; *see James v. Giles*, 221 F.3d 1074, 1077 (9th Cir. 2000). As each of these components is a

1 “threshold inquiry,” the federal court “may find that it can dispose of the application in a  
2 fair and prompt manner if it proceeds first to resolve the issue whose answer is more  
3 apparent from the record and arguments.” *Slack*, 529 U.S. at 485. Supreme Court  
4 jurisprudence “allows and encourages” federal courts to first resolve the procedural  
5 issue. *See id.*

6 Petitioner has not established that “jurists of reason would find it debatable  
7 whether the district court was correct in its procedural ruling.” *Id.* at 484. Accordingly,  
8 the request for a certificate of appealability is DENIED (docket no. 17). The Clerk of  
9 Court shall forward this order, along with the case file, to the United States Court of  
10 Appeals for the Ninth Circuit. *United States v. Asrar*, 116 F.3d 1268, 1270 (9th Cir.  
11 1997).

12 IT IS SO ORDERED.

13 DATED: May 26, 2009

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16 JEFFREY S. WHITE  
17 United States District Judge  
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UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

FLORENCIO P VALLEJO,  
Plaintiff,

Case Number: CV07-04536 JSW

**CERTIFICATE OF SERVICE**

v.

DERAL G ADAMS et al,  
Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on May 26, 2009, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Florencio P. Vallejo P-71999  
Corcoran State Prison  
A-3-173 L  
P.O. Box 5242  
Corcoran, CA 93212

Dated: May 26, 2009



Richard W. Wieking, Clerk  
By: Jennifer Ottolini, Deputy Clerk